

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

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| IN RE:<br><br>INTERSTATE POWER AND LIGHT<br>COMPANY AND AMES MUNICIPAL<br>ELECTRIC SYSTEM | DOCKET NOS. FCU-2018-0007<br>(C-2018-0478) |
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**ORDER MODIFYING SERVICE TERRITORY, ESTABLISHING  
COMPENSATION AMOUNT, AND SETTING CONDITIONS FOR RECOVERY**

**PROCEDURAL BACKGROUND**

On September 11, 2018, the United States Department of Agriculture (USDA) filed a complaint with the Utilities Board (Board) regarding its electric service providers, Interstate Power and Light Company (IPL) and Ames Municipal Electric System (Ames). The complaint was identified as Docket No. C-2018-0478. In its complaint, USDA stated it operates a large research and diagnostic facility, the National Centers for Animal Health, on 523 acres on the northeast side of Ames, Iowa. USDA stated that IPL provides electric service to approximately the north half of the facility and Ames provides electric service to the south half, including Building 21. USDA asserted that the current exclusive service territories prevent it from routing power to Building 21 through USDA's main electrical routing facility located in the north half of the territory, which is served by IPL. USDA requested the Board modify the exclusive service territory "by assigning Building 21" to IPL.

On September 18, 2018, the Board issued an Order Opening Formal Proceeding and identified the matter as Docket No. FCU-2018-0007. The case proceeded to

DOCKET NO. FCU-2018-0007 (C-2018-0478)

PAGE 2

hearing on August 27, 2019. On January 23, 2020, the Board issued an Order Modifying Exclusive Service Territory and Directing Further Filings. In relevant part, the Board found the facts submitted at hearing weighed in favor of a service territory modification. The Board determined that because Iowa Code § 476.25(1) requires an electric utility to purchase existing facilities serving existing customers at a reasonable price, Ames must be compensated for the transfer. Because the record was silent on the factors used to determine value, the Board ordered the parties to exchange information regarding the factors and to file with the Board a joint proposal for any necessary compensation.

On February 19, 2020, Ames filed a request for a stay pending judicial review. On February 24, 2020, the Board issued an order clarifying that the January 23, 2020 order “did not complete the modification of Ames’ and IPL’s service territories” and that the “Board does not intend to complete the modification until the compensation amount is determined.”

On February 21, 2020, Ames filed a Petition for Judicial Review in the Iowa District Court in and for Story County, initiating the case docketed as *Ames Municipal Electric System v. Iowa Utilities Board*, Story County Case No. CVCV051775. USDA intervened in the state court proceeding and, immediately thereafter, removed the action to the United States District Court for the Southern District of Iowa. The federal proceeding was docketed as *Ames Municipal Electric System v. Iowa Utilities Board*, USDC SD Iowa, Case No. 4:20-cv-00073-SMR-SBJ.

Ames, the Iowa Association of Municipal Utilities (IAMU), and the Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice, moved to

DOCKET NO. FCU-2018-0007 (C-2018-0478)

PAGE 3

remand the case back to state court. The Board joined Ames' motion and moved to remand on additional grounds. On December 22, 2020, the federal district court issued an order granting the motions to remand. Although finding the case presented "exceptionally complicated issues of federal jurisdiction" and that the USDA "possessed a good faith basis to remove the case to federal court," the court concluded Ames' Petition for Judicial Review does not contain a basis for removal to federal court.

With the case back in state court, on March 5, 2021, the Board filed a pre-answer motion to dismiss Ames' petition on the basis that the order from which judicial review was taken was not final agency action. USDA joined the Board's motion and no other party or intervenor opposed the Board's motion. Following a hearing, on March 8, 2021, the state district court issued an order dismissing the case and, consequently, the case was remanded back to the Board.

On March 23, 2021, the Board issued an order directing the parties to file a status update regarding the parties' compensation plan negotiations. Because the parties were unable to reach an agreement regarding compensation, the Board held a scheduling conference on May 27, 2021, and subsequently set testimony deadlines and a hearing date.

The case came before the Board for hearing on October 29, 2021.<sup>1</sup> Ames appeared through its attorney, David Lynch. (HT<sup>2</sup> p. 144). Attorney Lissa Koop

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<sup>1</sup> On or about November 30, 2020, Iowa Governor Kim Reynolds appointed Joshua Byrnes to the Iowa Utilities Board to fill the vacancy caused by Board Member Nick Wagner's resignation. On October 14, 2021, USDA filed a "Request Concerning Recusal," asking Board Member Byrnes to consider recusing himself from further participation in the above-captioned docket given he is a former member of the IAMU Board of Directors. On October 25, 2021, Board Member Byrnes issued a Recusal Statement in which he provided notice that he was recusing himself from the proceeding.

<sup>2</sup> "HT" refers to the transcripts of the August 27, 2019 and October 29, 2021 hearings, which have been uploaded in this docket in the Board's electronic filing system.

DOCKET NO. FCU-2018-0007 (C-2018-0478)

PAGE 4

appeared on behalf of IPL. (*Id.* pp. 144-45). USDA appeared through Assistant United States Attorney David Faith. (*Id.* p. 145). Attorney John Long appeared on behalf of OCA. (*Id.*) IAMU appeared through its attorney, Tim Whipple. (*Id.*)

Following the conclusion of the hearing and the filing of the hearing transcript, the parties filed post-hearing briefs.

### **BOARD ANALYSIS**

On October 13, 2021, the parties filed a statement of the issues, jointly identifying the following disputed matters for Board consideration:

1. What is the appropriate amount of compensation due to Ames under Iowa Code § 476.23(1), which the Board held in its January 23, 2020 order provides the “necessary information to determine the reasonable price for IPL to pay for Ames’ facilities that serve the USDA?”
2. Should the compensation due to Ames be modified or staggered to accommodate USDA’s differing timelines for connecting Building 21 to the primary meter in IPL’s current service territory and for connecting the remainder of the USDA property currently being served by Ames to the primary meter in IPL’s current territory?
3. Should IPL be allowed to defer any cash payment compensation to Ames to a regulatory asset to be recovered from IPL retail electric customers in a future contested rate proceeding; offset that asset with incremental revenue from the modified service territory until the payment is recovered in retail electric rates; and accrue interest on that asset, calculated using the U.S. Treasury three-year Constant Maturities average monthly rate until it has been recovered in retail electric rates?

As an “issue proposed without consensus,” Ames, OCA, and IAMU request the Board examine whether a territory exchange is the most appropriate form of compensation. Finally, in their post-hearing briefs, Ames and IAMU request the Board reconsider its decision to modify Ames’ and IPL’s service territories.

DOCKET NO. FCU-2018-0007 (C-2018-0478)

PAGE 5

**A. Reconsideration of Modification Decision Regarding Building 21**

In its January 23, 2020 order, the Board identified a number of factors that should be considered in determining whether service territories should be modified absent an agreement between the utilities. In applying the factors, the Board found the public health and safety concerns USDA identified weighed heavily in favor of a modification, while the preservation of Ames' existing service territory and the right to serve existing customers weighed against the modification. With respect to the public health and safety concerns, the evidence demonstrated that Building 21 does not have the redundancies and monitoring that is required for the safe operation of certain USDA laboratories housed in the building, which compromises the public's health and safety. The Board concluded the public's interest in the safe operation of the USDA laboratories outweighed the preservation of Ames' service territory. In their post-hearing brief, Ames and IAMU request the Board reconsider its modification decision. (Ames 11/19/21 Brief, pp. 6-10; IAMU 11/19/21 Post-Hearing Brief, pp. 3-14).

Ames concedes, as it must, that "USDA's Building 21 requires unusually reliable electric service . . . ." (*Id.* p. 9). Ames further appears to recognize that failing to provide such "unusually reliable electric service" to Building 21 raises public health and safety concerns. (*Id.*) (stating the public health and safety concern "is unique to Building 21"). Ames contends, however, that a service territory modification is not necessary to ensure safe electric service to Building 21. (*Id.* p. 10). Ames asserts that it is ready and able to provide the necessary service to Building 21 subject to USDA

DOCKET NO. FCU-2018-0007 (C-2018-0478)

PAGE 6

paying all associated costs.<sup>3</sup> (*Id.* p. 10).

The problem with Ames' assertion that "it stands ready to provide the service Building 21 requires" is that it has not actually done so. As noted in the Board's January 23, 2020 order, discussions have been occurring sporadically since 2011 and, as of the date of this order, Ames has not and is not providing an enhanced level of service to Building 21 to alleviate the public health and safety concerns that it appears to acknowledge exist. If the Board were to reconsider its decision to modify the service territory covering Building 21, there is no evidence in the record to suggest the parties would be able to reach an amicable resolution to address the public health and safety issues identified. Rather, the evidence supports the conclusion that absent Board action, the public health and safety concerns associated with Building 21 would continue indefinitely. The Board would have preferred the parties to have resolved this matter through mutual agreement; however, that has not occurred. Thus, after more than a decade of the parties' inability to find a resolution, the Board is now asked to do so.

IAMU also contends that the Board's January 23, 2020 modification order is directly contrary to its prior decisions and serves as a basis, in and of itself, for the Board to reconsider the modification. In support of its contention, IAMU directs the Board to *In re: Independence Light & Power v. East-Central Iowa Rural Electric Cooperative*, Docket No. SPU-08-10, "Order Affirming, in Part, and Modifying, in Part,

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<sup>3</sup> Ames also contends that even if the public health and safety warranted a modification of the service territory, the modification should be limited to Building 21 because the service concerns are limited to Building 21, because the remainder of the southern campus does not require that same level of unusually reliable service, and because USDA has not even sought modification of the remainder of the southern campus. The Board's discussion regarding the scope of the modification will occur below.

DOCKET NO. FCU-2018-0007 (C-2018-0478)

PAGE 7

*Proposed Decision*" (April 27, 2011). According to IAMU, *Independence* stands for the proposition that service boundary adjustments shall not be based on a comparison of the reliability of service provided by the utilities. (IAMU Post-Hearing Brief, p. 12). However, read in full, the Board in *Independence* did not foreclose the possibility of a service boundary modification based on differences in service, stating: "[w]hile there might be a case where a boundary modification could be supported because one utility offered significantly better . . . programs, that case was not presented here." *In re: Independence Light & Power v. East-Central Iowa Rural Electric Cooperative*, Docket No. SPU-08-10, "Order Affirming, in Part, and Modifying, in Part, Proposed Decision," | p. 10 (April 27, 2011).

The Board is not finding that IPL will provide significantly better programs or services; rather, the Board has found that there is a risk to the public health and safety if Building 21 is not provided reliable, redundant service and, despite more than a decade of discussions, Ames has not provided the reliable, redundant service necessary to alleviate this risk. The blame does not lie solely at Ames' doorstep and the Board recognizes this point; however, the parties' past conduct does not suggest the health and safety risk will be addressed absent a service territory modification.

Finally, IAMU contends the Board's decision in this case represents a significant departure from Board precedent; however, this modification decision is based solely on the unique facts presented in this case and does not represent a departure from the principle that it is "in the public interest to encourage the development of coordinated electric service at retail, to eliminate or avoid unnecessary duplication of electric utility

DOCKET NO. FCU-2018-0007 (C-2018-0478)

PAGE 8

services, and to promote economical, efficient, and adequate electric service to the public.” Iowa Code § 476.25.

For these reasons, the Board declines Ames and IAMU’s request to reconsider the January 23, 2020 modification decision as it pertains to Building 21.

## **B. Territory Exchange**

Ames contends that if the service boundaries are to be modified, then it “strongly prefers a territory swap.” (Ames Kom Second Direct Testimony p. 9.) Ames suggests that with a territory swap, the southern USDA campus can be moved from Ames’ service territory to IPL’s service territory and, at the same time, IPL service territory with similar electric load could be transferred to Ames. (*Id.*) In support of this remedy, Ames presents two potential territory exchange options.<sup>4</sup> (*Id.* pp. 9-11; Ames Kom Direct Ex. 3).

OCA similarly asserts that “a territory swap is the best overall solution to resolve the service territory modification.” (OCA Tessier Reply Testimony p. 5.) However, according to OCA, “IPL has not offered up a service territory that would be comparable to the USDA land and that would balance both sides of a very complicated equation with Ames’ customers on one side and IPL’s customers on the other.” (*Id.*)

The Board has a number of concerns regarding a forced territory transfer, not the least of which being the proposed areas of exchange are too undefined. OCA witness Tessier acknowledged as much at hearing, testifying:

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<sup>4</sup> Ames identified three potential IPL service territory areas for an exchange, which are marked as A, B, and C in Ames Kom Direct Exhibit 3. Area A includes an area of mostly residential homes, Area B includes the ISU Research Park, and Area C is referred to as the “Tea Garden” area, which is a small group of homes currently served by IPL and completely surrounded by Ames’ service territory. (Ames Kom Second Direct Testimony p. 10.) Ames suggests that if the Board orders a territory exchange, then either Areas A and C or Areas B and C should be transferred from IPL to Ames. (*Id.* pp. 10-11.)

DOCKET NO. FCU-2018-0007 (C-2018-0478)

PAGE 9

I think there's clarification that needs to be added [because] the area specifically that would be taken and swapped is undefined at this time. . . . [W]ithout a defined parcel, we cannot make a statement of what would be the best option and could or could not hurt any of those customers there.

(HT pp. 315-16.) Further, when questioned whether he thought the record contained sufficient information<sup>5</sup> for the Board to make a determination as to what territory should be switched, OCA witness Tessier opined that Ames and IPL “need to decide what would be equitable between” them and, once they have reached an agreement, they “should come before the Board to present that information.” (*Id.* p. 318.)

Further, even if the proposed territory to be exchanged was more precisely defined with information concerning the valuation of the territory, it is unclear whether § 476.25(1) provides the Board with the authority to force the territory swap. See United States Department of Agriculture's Rebuttal of September 9, 2021, p. 8 (stating that § 476.25(1) does not permit the Board to “forc[e] an exchange”).<sup>6</sup>

Most importantly, there are too many variables associated with a territory swap to be a workable form of compensation, under the circumstances and facts of this case. As noted by IPL witness Dee Brown, “there is no way to accurately predict the future incremental revenue resulting from [a] territory modification . . . .” (IPL Brown Rebuttal Testimony pp. 13-14.) In attempting to identify an economically neutral territory

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<sup>5</sup> The Board appreciates the difficulty Ames apparently had in presenting a territory exchange as a specific compensation option. Ames Hearing Exhibit 2 is a data request submitted by Ames to IPL on October 12, 2021, seeking “an electric system map of the IPL service territory located within the city limits of the city of Ames, south of Highway 30, between State Avenue and University Boulevard,” with transformer locations and sizes and meter locations. On October 19, 2021, IPL submitted its response, refusing to provide the information requested based, in part, on its assertion that the requested map and information concerns an “area not included within the Board's ordered territory modification, which is not relevant to this proceeding and was not included within the topics required to be addressed by the parties.”

<sup>6</sup> Notably, the Iowa State University Research Park, located on the south side of the city of Ames and considered as a potential candidate for a territory swap, filed a declaration that it is opposed to being part of a territory swap.

DOCKET NO. FCU-2018-0007 (C-2018-0478)

PAGE 10

exchange, future load growth potential must be taken into account; however, as recognized by OCA witness Tessier, such future load estimates “can only be speculation looking forward.” (HT pp. 204-08, 313-14). Additionally, a territory swap raises a host of additional factors that must be considered, including utility assets in the exchanged territories, additional costs incurred by each utility to serve the new areas, and impacts to customers. To that point, the parties were unable or unwilling to provide each other with relevant factual information; nor were they willing or able to provide the Board with viable territory swap alternatives. For all these reasons, except as provided below, the Board will not modify the service territory as a form of compensation from IPL to Ames.

**C. Scope of Service Territory Modification**

Ordering Clause 1 of the January 23, 2020 order provides as follows:

The service territory boundary between Ames Municipal Electric System and Interstate Power and Light Company shall be modified to include all of the United States Department of Agriculture’s Ames, Iowa, campus in Interstate Power and Light Company’s service territory.

Ames and IAMU argue that if the service territory boundary must be modified, the modification should be limited to only Building 21. (Ames 11/19/21 Brief pp. 10-12; IAMU 11/19/21 Post-Hearing Brief p. 12). The Board believes that for health and safety reasons that the entire complex should be served by one utility given the inability of the two utilities to successfully work together for the benefit of one customer. Unfortunately, the Board has determined that this relationship also bleeds into other negotiation areas including how to adequately offset any reasonable modification made by the Board.

Therefore, the Board agrees with the one item that apparently both utilities agree upon

DOCKET NO. FCU-2018-0007 (C-2018-0478)

PAGE 11

and will modify its January 23, 2020 order to limit the service territory transfer to Building 21 and any property necessary to connect Building 21 with the USDA campus.

As explained in the January 23, 2020 order, the underlying basis for the transfer is the public health and safety concerns associated with Building 21. Specifically, Building 21 is without the redundancies and monitoring that are required for the safe operation of certain laboratories that store pathogens, and which are located in the building. The Board found the safe operation of the Building 21 laboratories outweighed the preservation of Ames' service territory; however, as argued by Ames and IAMU, those public health and safety concerns do not extend to the portions of Ames' service territory that do not house dangerous pathogens.

USDA submitted evidence indicating that while it is prepared to switch electric service providers for Building 21 within six months, it is not now in a position to switch the remaining portion of the southern campus that Ames currently serves. (USDA Declaration of Benjamin M. A'Hearn pp. 4-6.) USDA cannot identify when the remaining portion of the southern campus would be ready to switch electric service providers and cannot guarantee it will obtain the necessary congressional funding to facilitate the transfer. (*Id.*)

Given the uncertainties of when, if ever, USDA will be ready for the transfer of the remaining portion of the southern campus, and particularly, the difficulty in projecting the value at an unspecified time in the future, the Board will revise the service territory modification to encompass only Building 21 and surrounding territory to be defined by Ames and IPL.<sup>7</sup>

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<sup>7</sup> As noted below, part of the calculation of value depends on the amount of revenue derived from the territory to be transferred and the applicable discount rate, both of which are likely to change over time.

**D. Amount of Compensation for Transferring the Building 21 Service Territory**

Because the Board finds the Building 21 service territory should be transferred from Ames to IPL, Iowa Code § 476.25(1) requires the Board to set the reasonable amount of compensation for the loss of territory by Ames. In its January 23, 2020 order, the Board identified a number of factors that may be used to determine compensation, including the cost of the facilities being acquired, depreciation, and loss of revenue. Ames proposes the Board set a reasonable amount of compensation based solely on loss of revenues. Consequently, Ames is not seeking compensation for any assets such as substations, transformers, line upgrades, switchgear, and the like. (HT pp. 197-98.) Ames proposes, and IPL agrees, that the future lost revenue calculation should only include the revenue that is associated with recovery of fixed costs. (*Id.* at p. 163; IPL Ashenfelter Rebuttal Testimony p. 5.)

To calculate lost revenues, Ames proposes a number of assumptions to which IPL agreed. IPL accepts that the calculation should be based on a 1 percent discount rate. (HT at pp. 259, 270.) IPL also agrees that the calculation may include a 4 percent rate increase every fourth year. (*Id.* at p. 270.) Further, IPL accepts Ames' proposal to compute lost revenues over a period of 20 years. (*Id.* at pp. 271-72.) This does not mean Ames will be "made whole" for the loss of the territory, and, as recognized by IPL witness Logan Aschenfelter, the benefit to IPL in receiving the additional service territory will "continue in perpetuity." (*Id.* at p. 265.) According to Mr. Aschenfelter, the primary difference between Ames' and IPL's calculations is the lost revenue figure to be used in the first year. (*Id.* at pp. 270-71.)

DOCKET NO. FCU-2018-0007 (C-2018-0478)

PAGE 13

In calculating the lost revenue figure for the first year, Ames first computed its electric service net revenue for Building 21 and the remaining southern campus during the period from July 2020 through June 2021. (Ames Kom Second Direct Testimony pp. 4-5.) As shown in Kom Direct Exhibit 1, the net revenue is \$443,678. Relying on information obtained from a 2011 cost of service study, Ames argues the net revenue figure should be multiplied by 51%, which represents a fixed/variable ratio, and results in annual fixed costs of \$226,276. (Ames Kom Second Direct Testimony pp. 4-5.)

Ames contends two additional factors must be considered before a final lost revenue figure can be obtained, namely: (1) the Energy Cost Adjustment (ECA) and, (2) the increase in the average energy cost to Ames as a result of the transfer. (*Id.* at pp. 5-6.) With respect to the latter factor, Ames states it is unable to calculate that loss and simply notes that any final computed figure will not include all identified losses. (*Id.*) Concerning the ECA, Ames asserts that last year, its ECA was -\$0.0072, and it is expected to continue to move more negative. (*Id.*) According to Ames, a negative ECA means the 51%/49% fixed/variable ratio must be adjusted to account for the decreased revenue from the energy component. (*Id.*) To account for the negative ECA, Ames proposes to multiply the ECA value by the energy used and add the resulting number to the annual fixed costs. (*Id.*) Applying the ECA correction, Ames contends the lost revenue figure for both Building 21 and the remaining portions of the southern campus is \$269,159. (*Id.*)

IPL's primary disagreement with Ames' calculation centers on how to compute the fixed/variable ratio. (IPL Ashenfelter Rebuttal Testimony pp. 7-8.) According to IPL

DOCKET NO. FCU-2018-0007 (C-2018-0478)

PAGE 14

witness Ashenfelter, the ratio should be computed as follows:

As stated before, [Ames'] current electric utility rates for Commercial customers includes an energy charge of \$0.0644 per kWh. Section 28.105(2)(c) of the City of Ames Municipal Code states that Commercial electric customer rates shall also be subject to the current [applicable] energy cost adjustment. This means that the current \$0.0644 per kWh energy charge is intended to recover [Ames'] variable costs of energy defined as a \$0.0495 per kWh base energy unit rate plus an energy rate adjustment to determine a Commercial customer's ECA. My analysis assumes that the remaining \$0.0644 per kWh Commercial energy charge that is not intended to recover variable costs of energy are associated with recovery of fixed costs.

(*Id.* pp. 7-8.) In other words, IPL contends the revenue associated from the ECA represents variable costs that are not associated with recovery of fixed costs. Using the figures from the USDA bill for the relevant time period (*i.e.*, July 2020 through June 2021), IPL states that \$253,026 of the total amount is associated with the ECA, which leaves \$190,069, or 43%, as the fixed cost portion. (*Id.*)

There is no prescribed method for determining fixed costs and both IPL and Ames forward reasoned approaches. The Board finds, however, that Ames' approach is more reasonable under the circumstances presented in this case for a number of reasons. First, the evidence suggests that the energy component of the rates covers some fixed costs. (Ames Kom Reply Testimony pp. 12-13; Ames Kom Reply Exhibit 11). Further, the Board notes that following the expiration of the 20-year period, Ames' loss of revenue from the severance of the territory from its service area will continue and IPL will continue to benefit from the inclusion of the territory within its service area. As revealed in Ames Kom Direct Exhibit 2, Ames' lost revenue for year 21 will be approximately \$315,000, yet Ames will receive no compensation for those losses and the losses sustained each following year. A drawback to providing a one-time cash

DOCKET NO. FCU-2018-0007 (C-2018-0478)

PAGE 15

payment as the form of compensation is that the calculation for computing a future revenue stream ends at some point while the actual loss continues beyond that end point. For these reasons, the Board finds Ames' proposed mechanism for computing fixed damages to be more reasonable and will use the same in determining compensation.

In Ames Kom Direct Exhibit 2, Ames provided a spreadsheet showing its lost revenue computation over the 20-year period. Unfortunately, the values represented in the spreadsheet include lost revenue associated with the service territory modification for both Building 21 and the remainder of the southern campus. Because the Board is not modifying the service territory covering the entire southern campus, the Board must determine the compensation amount only for Building 21.

In its post-hearing brief, Ames asserts the annual fixed cost revenue for Building 21 is \$131,731; however, Ames failed to cite evidence within the record to support that figure. See Ames Second Post-Hearing Brief p. 15. Further, Ames failed to explain how it derived the \$131,731.<sup>8</sup> The parties have, however, submitted sufficient evidence from which the Board can compute Building 21's annual fixed cost revenue and compute the total compensation amount using the 20-year period and other assumptions to which Ames and IPL agreed.

Ames Kom Direct Exhibit 1 reveals that over the agreed-upon period from July 2020 through June 2021, Ames received net revenue from Building 21 in the amount of \$199,592. The net revenue is multiplied by 51%, which represents the fixed/variable ratio. The resulting product, \$101,791, is the initial, unaltered annual fixed costs. Next,

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<sup>8</sup> IPL did, however, present evidence in support of its contention that the annual fixed cost revenue for Building 21 is \$83,088. (IPL Hearing Exhibit 3 pp. 3-4.)

DOCKET NO. FCU-2018-0007 (C-2018-0478)

PAGE 16

the ECA adjustment must be added ( $2,728,950$  [energy used by Building 21]  $\times$   $\$0.0072$  =  $\$19,648$ ). The sum of the initial, unaltered annual fixed costs and the ECA adjustment is  $\$121,439$  ( $\$101,791 + \$19,648 = \$121,439$ ), which is the annual lost recovery of fixed costs. Using this figure and applying the assumptions agreed to by the parties (*i.e.*, 20-year period, a 1% discount rate, a 4% rate increase each fourth year), the resulting sum is  $\$2,366,505$ . This number ( $\$2,366,505$ ) is the present value that IPL will be required to pay Ames for the transfer of the Building 21 service territory from Ames to IPL.

Finally, Ames requested the Board order a true-up that would occur “at some point in time to accurately reflect the change in USDA’s load as it expands the site.” (Ames Kom Second Direct Testimony p. 8.) Ames did not, however, provide any meaningful details of the nature of its requested true-up, stating at hearing that it was not prepared to identify when the true-up should even occur. (HT p. 166.) The Board will not order a subsequent true-up for a number of reasons, not the least of which being that Ames’ request appears to be based in large part on potential USDA development in the southern campus. However, because the Board is not modifying the southern campus service territory except for Building 21, any potential USDA development in that area is not relevant to this discussion. Further, in determining compensation for the Building 21 service territory transfer, the Board utilized Ames’ suggested method, which presumably represents Ames’ best efforts at determining loss. Finally, as noted by IPL, there is value in finality and ordering a true-up would prolong this contested case, potentially into the 2040’s.

DOCKET NO. FCU-2018-0007 (C-2018-0478)

PAGE 17

**E. IPL's Recovery of Cash Compensation**

The final issue to be addressed is whether IPL should be allowed to defer the cash payment to a regulatory asset account to be recovered from IPL retail electric customers in a future contested case proceeding. IPL suggests this question be answered in the affirmative. (IPL Ashenfelter Rebuttal Testimony pp. 10-11.) IPL further proposes to offset that regulatory asset with incremental revenue not associated with IPL's automatic adjustment mechanisms from the modified service territory until the payment is recovered in retail electric rates. (*Id.*) IPL further requests to accrue interest on the regulatory asset, utilizing the U.S. Treasury three-year Constant Maturities average monthly rate, until such time as it has been recovered in retail electric rates. (*Id.*)

OCA argues that IPL should not be permitted to include the regulatory asset in rate base in a future rate proceeding. (OCA Kruger Reply Testimony p. 6.) According to OCA, "IPL is recovering additional marginal revenues from the territory acquisition and will continue to recover additional margin revenues from the acquisition beyond the date of the next rate proceeding" and, as such, "[i]t would be inappropriate to allow IPL to earn a rate of return on the cash compensation made to acquire the territory." (*Id.*)

Under the cost causation principle, costs should ordinarily be allocated to those who caused the costs and received any resulting benefits. Rates should reflect the costs actually caused by the customer who must pay them. With respect to the costs for the Building 21 service territory transfer, IPL rate-payers did not cause those costs. (HT p. 251.)

DOCKET NO. FCU-2018-0007 (C-2018-0478)

PAGE 18

The record in this case clearly establishes that the costs for the service territory modification were caused by USDA as evident from USDA's September 11, 2018 complaint, requesting the Board modify the Building 21 service territory; however, as USDA has made abundantly clear, attempting to allocate costs related to the modification to USDA raises a host of issues. USDA is a governmental entity, subject to any number of federal appropriation laws and policies that govern how USDA may expend public funds. This is not a situation in which a for-profit company or even a private individual is requesting a public utility to expend funds for the unique benefit of the company or individual. Further, as the Board previously found, the service territory transfer, and by extension, the compensation required for the transfer, is necessary to ensure the safe operations of certain USDA laboratories.

The Board finds merit to the concerns raised by OCA regarding the potential harm to IPL customers. Therefore, the Board will require that IPL recover the payment from no ratepayer other than USDA. Nothing in this order prohibits IPL and USDA from negotiating an arrangement that would allow for the payment.<sup>9</sup> Prior to the events at issue in this case, USDA decided that it was appropriate to store dangerous pathogens in a laboratory that existed within Ames' electric service territory. Through its complaint, USDA now claims that such pathogens cannot be stored in the laboratories safely with the electric service Ames provides, and furthermore, USDA states it does not wish to pay Ames for any upgrades that would be unique to its own needs to ensure it received

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<sup>9</sup> At one time, through federally allocated funds, resources were made available to USDA for the electrical services for Building 21. See HT pp. 13-18 (discussing USDA's campus modernization efforts, including to the Building 21 electric system), but see September 9, 2021 USDA Declaration of A'Hearn pp. 1-2 (stating that if the Board provides approval to transfer the service territory, USDA will require additional federal authorization of \$125,000 to complete final connections.)

DOCKET NO. FCU-2018-0007 (C-2018-0478)

PAGE 19

the necessary electric service to provide for the safe storage of the pathogens. USDA argues that the service territory that covers its laboratory should be altered, to the detriment of Ames and potentially IPL ratepayers, and that it should bear no responsibility for these harms; however, neither Ames nor IPL ratepayers created this public health situation and should not be responsible to pay the costs.

### **ORDERING CLAUSES**

#### **IT IS THEREFORE ORDERED:**

1. Ordering Clause 1 of the Utilities Board's January 23, 2020 "Order Modifying Exclusive Electric Service Territory and Directing Further Filings" is modified as follows: The service territory boundaries between Ames Municipal Electric System and Interstate Power and Light Company shall be modified, subject to the conditions included in the following Ordering Clauses, such that the Building 21 service territory is transferred from Ames Municipal Electric System to Interstate Power and Light Company. Within 30 days of this order, Ames Municipal Electric System and Interstate Power and Light Company are directed to determine the boundaries of the service territory to be transferred to Interstate Power and Light Company, shall prepare a map illustrating the boundaries, and shall submit the map to the Utilities Board for review.
2. To compensate Ames Municipal Electric System for the loss of its Building 21 service territory, Interstate Power and Light Company shall pay Ames Municipal Electric System \$2,366,505.
3. Interstate Power and Light Company is not permitted to recover any of the \$2,366,505 payment to Ames Municipal Electric System from ratepayers other than from the United States Department of Agriculture.

DOCKET NO. FCU-2018-0007 (C-2018-0478)

PAGE 20

4. Upon the Utilities Board's approval of the new electric service territory maps showing the transfer of the Building 21 service territory, the service territory modification shall be complete.

**UTILITIES BOARD**

**Geri Huser** Date: 2022.02.25  
11:26:47 -06'00'

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**Richard Lozier** Date: 2022.02.25  
10:52:51 -06'00'

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ATTEST:

**Louis Vander Streek** Louis Vander Streek  
2022.02.25 11:35:50  
-06'00'

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Dated at Des Moines, Iowa, this 25th day of February, 2022.